

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

COREY SEETON,  
Plaintiff,

v.

THERMADYNE HOLDINGS  
CORPORATION,  
Defendant.

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Case No. 4:09-cv-147

**ORDER GRANTING PLAINTIFF’S MOTION FOR EXEMPTION FROM FILING FEE**

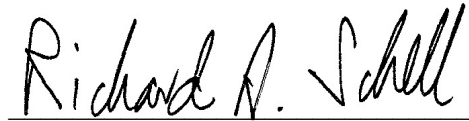
Before the court is the Plaintiff’s “Motion for Exemption from Filing Fee” (de # 4). In his Motion, the Plaintiff asks the court to find that he is exempt from paying a filing fee in this civil action. The Plaintiff claims that he was illegally fired based on his service in the United States armed forces in violation of the Uniform Services Employment and Reemployment Rights Act (“USERRA”), 38 U.S.C. § 4301, *et seq.*

Section 4323(h)(1) provides that “[n]o fees or court costs may be charged or taxed against any person claiming rights under this chapter.” In the seminal USERRA filing fee case, the Seventh Circuit construed this language to exempt a plaintiff from the necessity of paying a filing fee. *Davis v. Advocate Health Ctr. Patient Care Express*, 523 F.3d 681, 685 (7<sup>th</sup> Cir. 2008). The court relied on the plain language of the statute and Congress’s intent to minimize the burden on those claiming rights under the statute in finding that the above-quoted language covers the fee normally associated with filing a complaint in federal court. Indeed, it is the unabridged language of the statute that differentiates it between other tax-costing statutes, which typically hinge on which party prevails. *See id.* at 684; *see also, e.g.*, FED. R. CIV. P. 54(d). Mindful that the Fifth Circuit also construes USERRA liberally, *Sykes v. Columbus & Greenville Ry.*, 117 F.3d 287, 294 (5<sup>th</sup> Cir. 1997)

(construing predecessor statute), the court finds that the Plaintiff should be allowed to proceed without paying a filing fee. Accordingly, the court is of the opinion that the Plaintiff's "Motion for Exemption from Filing Fee" (de # 4) should be, and hereby is, GRANTED.

IT IS SO ORDERED.

**SIGNED this the 15th day of April, 2009.**

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style. The first name "Richard" is written with a large, prominent "R". The middle initial "A." is written in a smaller, simpler script. The last name "Schell" is written with a large, prominent "S" and a long, sweeping tail that extends to the right.

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RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE